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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,868	07/23/2003	Martha F. Rowland	030263	8007

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EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,868

Applicant(s)

ROWLAND ET AL.

Examiner

Bruce A. Lev

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 23 July 2003.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

BRUCE A. LEV  
PRIMARY EXAMINER

## DETAILED ACTION

### *Specification*

Applicant is reminded of the proper language and format for an abstract of the disclosure. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "is disclosed", in line 1.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-16 are rejected under 35 U.S.C. 102(b) as being anticipated by

***Feigenbaum 5,437,071.***

***Feigenbaum sets forth*** a cylindrical sleeve comprising first and second ends; a first inner surface defining a circular opening; a second concentric outer surface; the sleeve formed from cell foamed rubber; a slit extending from the first to the second end; a water-proof fabric layer; and a fastener.

Claims 1-6, 12, 13, 16-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by ***Schmitt et al 5,673,768.***

As concerns claims 1-6, 12, 13, and 16, ***Schmitt et al set forth*** a cylindrical sleeve comprising first and second ends; a first inner surface defining a circular opening; a second

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concentric outer surface; the sleeve formed from cell foamed rubber; a slit extending from the first to the second end; a water-proof fabric layer; and a fastener (inclusive of member 13).

As concerns claims 17, 18, and 20, *Schmitt et al set forth* a ladder comprising a first side rail; a second side rail; a rung; and a means for covering the rung including a sleeve 6.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Feigenbaum in view of the German Patent 4,125,780 of Berg*.

*Feigenbaum sets forth* the sleeve, as advanced above, except for the first surface including a plurality of grooves. However, *Berg teaches* the use of grooves 14 upon a first surface of a sleeve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Feigenbaum by incorporating a plurality of grooves on the first surface, as taught by Berg, in order to increase the coefficient of friction of the sleeve and thereby increase the ability and ease to grip, remove, and replace the sleeve.

Claims 7, 9-11, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schmitt et al in view of Feigenbaum et al*.

As concerns claims 7 and 9-11, *Schmitt et al set forth* the sleeve, as advanced above, except for the sleeve being formed from cell foam rubber. However, *Feigenbaum et al teach* forming a sleeve from cell foam rubber material. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Schmitt et al by forming it from cell foam rubber material, as taught by Feigenbaum et al, in order to increase the resiliency of the sleeve and increase the comfort to a user.

As concerns claims 14 and 15, *Schmitt et al set forth* the sleeve, as advanced above, except for the fabric water-proof layer. However, *Feigenbaum et al teach* the use of a fabric water-proof layer upon a sleeve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Schmitt et al by incorporating a fabric water-proof layer, as taught by Feigenbaum et al, in order to increase the weather resistance capability of the sleeve.

Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schmitt et al in view of the German Patent 4,125,780 of Berg*.

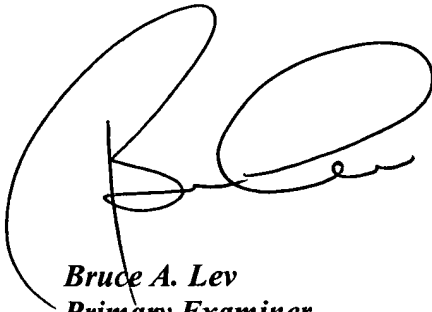
*Schmitt et al set forth* the ladder and sleeve, as advanced above, except for the first surface including a plurality of grooves. However, *Berg teaches* the use of grooves 14 upon a first surface of a sleeve. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sleeve of Schmitt et al by incorporating a plurality of grooves on the first surface, as taught by Berg, in order to increase the coefficient of friction of the sleeve and thereby the safety of the user stepping thereon.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

5/26/2004

A handwritten signature in black ink, appearing to be 'B. Lev', with a large, stylized loop at the beginning and a horizontal line extending to the right.

***Bruce A. Lev  
Primary Examiner  
Group 3600***